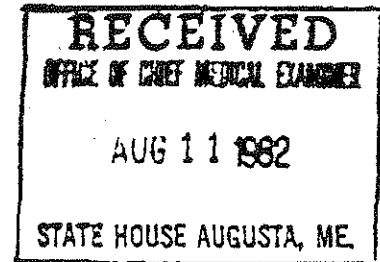


JAMES E. TIERNEY  
ATTORNEY GENERAL



STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
STATE HOUSE STATION 6  
AUGUSTA, MAINE 04333

August 5, 1982



Henry F. Ryan, M.D.  
Chief Medical Examiner  
State House Station 37  
Augusta, ME 04333

Dear Dr. Ryan:

Deputy Attorney General James Brannigan referred your letter of July 29, 1982, to me for review and response. In your letter you asked whether, pursuant to 22 M.R.S.A. § 3023, the Chief Medical Examiner may appoint physicians as medical examiners who, although licensed, are not registered for active practice in the State. It is our opinion that a physician with an inactive license is legally qualified to work as a medical examiner.

Pursuant to 22 M.R.S.A. § 3023, the Chief Medical Examiner must appoint medical examiners who are licensed as physicians in the State. The Maine State Board of Registration in Medicine allows a physician who is duly licensed in the State to register as either active or inactive. However, a physician who seeks inactive licensure status must declare that he will not render "professional health care" during the inactive term. We have conferred with the Board of Registration in Medicine on this matter and the Board agrees with our interpretation that the work performed by a medical examiner does not fall within the meaning of "professional health care." In general, the rendering of professional health care refers to the practice of diagnosing, relieving or curing any human disease, ailment, defect or complaint and does not include the responsibilities and duties of a medical examiner during an investigation into cause and manner of death. See 32 M.R.S.A. § 3270.

I hope this information is helpful to you. Please feel free to contact me if I can be of further assistance.

Sincerely,

SUSAN HAWKES  
Assistant Attorney General

SH/glm

Chief Medical Examiner  
Henry F. Ryan, M.D.

Deputy Chief Medical Examiner  
Ronald P. Roy, M.D.



Area Code 207  
289-2993

**OFFICE OF CHIEF MEDICAL EXAMINER**

State House Station 37  
Augusta, Maine 04333

July 29, 1982

*Retired Physicians  
Inactive Registration  
As Medical  
Examiners*

James Brannigan, Esq.  
Deputy Attorney General  
State House Station #6  
Augusta, Maine 04333

Dear Jim,

Enclosed is a copy of the affidavit that is required of older physicians who retire but who wish to retain a license in case they want to resume practice. The reason why such action would be taken would be to permit resumption of practice without re-examination, new application fees and procedures for professional status documentation such as medical school transcripts, etc.

This status of licensed but not registered for active practice is taken for a number of reasons. Basically it enables the inactive physician to drop malpractice insurance, save the re-registration fees, save the cost and bother of continuing medical education required for such registration and enables them to advise old but stubborn patients that they can no longer see them because they are not actively registered and to do so would be illegal rather than just a personal choice. This status may be desired by the retired physician or the physician leaving the state for a long but indefinite time or by a physician with a long term, but not necessarily permanent, disability.

With the above explanation in mind, please review the wording of this document, especially ".....will not render professional health care....." I suppose that medical examiner work could be considered "health care" but on the other hand, it really is not. Once again, the role of the medical examiner as coroner arises as an issue.

The reason I am presenting this to you is that I expect that this will be a problem in the future involving more medical examiners than Dr. Harry Brinkman, whose inquiry stimulated this letter. These are older men, willing to help us

James Brannigan, Esq.  
July 29, 1982  
Page 2

and free of other medical commitments. I would like to retain their services as they often cover isolated areas and are readily available.

Please render a legal opinion on this matter as to whether, consistent with 22 M.R.S.A., § 3023, these persons can continue as medical examiners and consider whether we should seek to address this problem in the next legislative package. I urge haste as this, like the matter of non-citizens as temporary medical examiners, is a current problem.

Sincerely,

Henry F. Ryan, M.D.  
Chief Medical Examiner

Encl.

HFR/ecr